

Assembly Bill No. 1834

Passed the Assembly August 23, 2010

Chief Clerk of the Assembly

Passed the Senate August 20, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 7027.5 of the Business and Professions Code, and to add Part 2.4 (commencing with Section 10570) to Division 6 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1834, Solorio. Rainwater Capture Act of 2010.

(1) Under existing law, the State Water Resources Control Board (state board) and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the national pollutant discharge elimination system (NPDES) permit program and the Porter-Cologne Water Quality Control Act. Existing law authorizes a regional water management group, as defined, to adopt an integrated regional water management plan that addresses specified matters. Existing law authorizes a city, county, or special district to develop, jointly or individually, stormwater resource plans that meet certain standards.

This bill would enact the Rainwater Capture Act of 2010, which would authorize a landowner to install, maintain, and operate, on the landowner's property, a rainwater capture system meeting specified requirements. The bill would authorize a public agency to lead a statewide stakeholder process to consider and address issues arising out of expansion of rainwater and stormwater capture. The bill would require participants in the stakeholder process to be responsible for costs incurred as a result of their participation and would require the initiating public agency to be responsible for specified costs.

(2) Existing law, the Contractors' State License Law, creates the Contractors' State License Board within the Department of Consumer Affairs and provides for the licensing and regulation of contractors. Existing law authorizes a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a swimming pool, spa, or hot tub, an outdoor cooking center, or an outdoor fireplace, if certain conditions are met. Under existing law, a violation of these

provisions and related provisions of existing law is grounds for disciplinary action.

This bill would additionally authorize a landscape contractor working within the classification of his or her license to enter into a prime contract for the construction of a rainwater capture system, as defined, if the system is used for landscape irrigation. The bill would authorize a landscape contractor holding a specified classification to design and install all exterior components of a rainwater capture system that are not a part of, or attached to, a structure.

The people of the State of California do enact as follows:

SECTION 1. Section 7027.5 of the Business and Professions Code is amended to read:

7027.5. (a) A landscape contractor working within the classification for which the license is issued may design systems or facilities for work to be performed and supervised by that contractor.

(b) Notwithstanding any other provision of this chapter, a landscape contractor working within the classification for which the license is issued may enter into a prime contract for the construction of any of the following:

(1) A swimming pool, spa, or hot tub, provided that the improvements are included within the landscape project that the landscape contractor is supervising and the construction of any swimming pool, spa, or hot tub is subcontracted to a single licensed contractor holding a Swimming Pool (C-53) classification, as set forth in Section 832.53 of Title 16 of the California Code of Regulations, or performed by the landscape contractor if the landscape contractor also holds a Swimming Pool (C-53) classification. The contractor constructing the swimming pool, spa, or hot tub may subcontract with other appropriately licensed contractors for the completion of individual components of the construction.

(2) An outdoor cooking center, provided that the improvements are included within a residential landscape project that the contractor is supervising. For purposes of this subdivision, “outdoor cooking center” means an unenclosed area within a landscape that is used for the cooking or preparation of food or beverages.

(3) An outdoor fireplace, provided that it is included within a residential landscape project that the contractor is supervising and is not attached to a dwelling.

(4) A rainwater capture system, as defined in Section 10572 of the Water Code, used for landscape irrigation.

(c) (1) Work performed in connection with a landscape project specified in paragraph (2), (3), or (4) of subdivision (b) that is outside of the field and scope of activities authorized to be performed under the Landscape Contractor (C-27) classification, as set forth in Section 832.27 of Title 16 of the California Code of Regulations, may only be performed by a landscape contractor if the landscape contractor also either holds an appropriate specialty license classification to perform the work or is licensed as a general building contractor. If the landscape contractor neither holds an appropriate specialty license classification to perform the work nor is licensed as a General Building contractor, the work shall be performed by a Specialty contractor holding the appropriate license classification or by a General Building contractor performing work in accordance with the requirements of subdivision (b) of Section 7057.

(2) Notwithstanding paragraph (1), a landscape contractor performing work under the Landscape Contractor (C-27) classification, as set forth in Section 832.27 of Title 16 of the California Code of Regulations, may design and install all exterior components of a rainwater capture system, as defined in Section 10572 of the Water Code, that are not a part of, or attached to, a structure.

(d) A violation of this section shall be cause for disciplinary action.

SEC. 2. Part 2.4 (commencing with Section 10570) is added to Division 6 of the Water Code, to read:

PART 2.4. RAINWATER CAPTURE ACT OF 2010

10570. This part shall be known, and may be cited, as the Rainwater Capture Act of 2010.

10571. The Legislature finds and declares all of the following:

(a) As California has grown and developed, the amount of stormwater flowing off of buildings, parking lots, roads, and other impervious surfaces into surface water streams and flood channels

has increased, thereby reducing water allowed to infiltrate into groundwater aquifers and increasing water and pollution flowing to the ocean. At the same time, recurring droughts and water shortages in California have made water conservation efforts a priority.

(b) Historical patterns of precipitation are predicted to change, with two major implications for water supply. First, an increasing amount of California's water is predicted to fall not as snow in the mountains, but as rain in other areas of the state. This will likely have a profound and transforming effect on California's hydrologic cycle and much of that water will no longer be captured by California's reservoirs, many of which are located to capture snowmelt. Second, snowmelt, and runoff resulting from snowmelt, are predicted to occur progressively earlier in the year, and reservoirs operated for flood control purposes must release water early in the season to protect against later storms, thereby reducing the amount of early season snowmelt that can be stored.

(c) Rainwater, captured and properly managed, can contribute significantly to local water supplies by percolation into the ground to recharge groundwater aquifers, thereby increasing available supplies of drinking water. In addition, the use of rainwater through onsite storage and use for landscape irrigation significantly reduces the demand for potable water, contributing to the statutory objective of a 20-percent reduction in urban per capita water use in California by December 31, 2020.

(d) Expanding reliance on rainwater capture for water supply needs will require efforts at all levels, from individual landowners to state and local agencies and watershed managers.

10571.5. Nothing in this part shall be construed to do either of the following:

- (a) Alter or impair any existing rights.
- (b) Change existing water rights law.

10572. Solely for the purposes of this part, and unless the context otherwise requires, the following definitions govern the construction of this part:

- (a) "Agricultural lands" has the same meaning as defined pursuant to Section 56016 of the Government Code.
- (b) "Developed or developing lands" means lands that have one or more of the characteristics described in subparagraphs (A) to

(C), inclusive, of paragraph (4) of subdivision (b) of Section 56375.3 of the Government Code.

(c) “Rainwater” means rain or snowmelt that has not entered an offsite storm drain system or channel, a flood control channel, or any other stream channel, and has not previously been put to beneficial use.

(d) “Rainwater capture system” means a facility on developed or developing lands, but not on agricultural lands, designed to capture and retain rainwater flowing off of a building, parking lot, road, or any other manmade, impervious surface, for either subsequent outdoor, nonpotable uses or infiltration into a groundwater aquifer.

(e) “Stormwater” means temporary surface water and snowmelt runoff generated by immediately preceding storms. This definition shall be interpreted consistent with the definition of “stormwater” in Section 122.26 of Title 40 of the Code of Federal Regulations, as that section may be amended.

10573. (a) A landowner may install, maintain, and operate, on the landowner’s property, a rainwater capture system to supply water for outdoor, nonpotable uses on the property where the rainwater was captured or for groundwater recharge. If a local agency has a program to promote rainwater or stormwater capture and use, the landowner shall comply with applicable requirements of the program, including, but not limited to, a stormwater resource plan adopted pursuant to Part 2.3 (commencing with Section 10560).

(b) Financing pursuant to Chapter 29 (commencing with Section 5898.10) of Part 3 of Division 7 of the Streets and Highways Code shall be available to landowners who install a rainwater capture system, if a local agency authorizes and arranges that financing consistent with the requirements of that chapter.

(c) This section shall not be construed to impose a duty on, or impair the authority of, a local agency to establish or implement a program for rainwater capture in its jurisdiction.

10574. (a) It is the intent of the Legislature that the use of rainwater for nonpotable uses should not be constrained by drinking water standards in Title 22 of the California Code of Regulations, but shall fully comply with water quality requirements for nonpotable water pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000)).

(b) Notwithstanding subdivision (a), this part does not affect any additional state, regional, or local requirements for the protection of groundwater quality from contamination resulting from stormwater drainage.

10575. (a) It is the intent of the Legislature to encourage collaboration among state, regional, and local agencies with responsibilities that include, but are not limited to, building standards, flood protection, water supply, or land use to promote greater capture of rainwater and stormwater for water supply purposes.

(b) It is the intent of the Legislature that the California Building Standards Code, including the California Green Building Standards Code (Part 11 (commencing with Section 101) of Title 24 of the California Code of Regulations), encourage and provide building standards guidelines for the installation and use of rainwater capture systems for outdoor, nonpotable uses and groundwater recharge.

10576. (a) The Legislature finds and declares that, in order to expand rainwater and stormwater capture broadly, many legal, policy, and technical issues will need to be addressed and resolved, and the best way to address these issues is to develop recommendations for policies of state and local agencies that would encourage and facilitate the voluntary installation and use of rainwater capture systems for outdoor, nonpotable uses and groundwater recharge, and capture of stormwater by public agencies.

(b) A public agency, including, but not limited to, the Metropolitan Water District of Southern California or the California State University Water Resource and Policy Initiative, may lead a statewide stakeholder process to consider and address the issues arising out of the expansion of rainwater and stormwater capture. If a stakeholder process is initiated, the initiating public agency shall invite all stakeholders, and federal, state, and local agencies concerned about rainwater and stormwater capture to participate.

(c) A stakeholder process initiated pursuant to this section may consider all of the following issues:

- (1) Vector control.
- (2) Water supply augmentation.
- (3) Water quality, including but not limited to both of the following:

- (A) First rain contamination hazards.
- (B) Potential changes in the concentration, quantity, or abundance of runoff pollution from increased rainwater collection.
- (4) Safe installation, maintenance, and operation of rainwater capture systems.
- (5) Water rights.
- (6) Vegetation and habitat management in flood control facilities and rainwater or stormwater capture systems.
- (7) Effects on downstream, in-stream flow volumes and native fish and wildlife.
- (8) Consistency with building standards requirements, including the building drainage requirements of Chapter 11 of the California Plumbing Code (Part 5 (commencing with Section 101.0) of Title 24 of the California Code of Regulations).
- (9) Potential for indoor, nonpotable use of captured rainwater for toilets and laundry.
- (10) Financial and tax incentives to encourage greater capture of rainwater and stormwater.
- (11) Necessary monitoring and reporting of rainwater and stormwater capture programs.
- (12) Outcomes of existing programs that promote rainwater or stormwater capture.
- (13) The financial feasibility of each of the recommendations.
- (d) Participants in the stakeholder process shall be responsible for costs incurred as a result of their participation. The public agency that initiates the stakeholder process shall be responsible for the costs of the meetings and the preparation of any report on the conclusions or recommendations of the stakeholder group.

Approved _____, 2010

Governor